MINUTES
(Approved by the Committee)

Energy, Environment & Technology Committee
1:00 p.m.
Wednesday, June 25, 2008
Room 204, Capitol Annex
Boise, Idaho

The meeting was called to order at 1:00 p.m. by Co-chairman Representative George Eskridge. Other members present were Co-chairman Senator Curt McKenzie, Senator Mike Jorgenson, Senator Kate Kelly, Senator Elliott Werk, Representative Bert Stevenson, Representative Eric Anderson, and Representative Elaine Smith. Absent and excused were Senator Patti Anne Lodge, Senator Russell Fulcher, Representative Maxine Bell, Representative Bob Nonini, Representative Ken Andrus, and ad hoc members Representative Wendy Jaquet and Representative Mark Snodgrass. Staff present were Mike Nugent and Juanita Budell.

Others present included Jo Elg, City of Idaho Falls; Gene Fadness, Idaho Public Utilities Commission; Russell Westerberg, Rocky Mountain Power; Ken Miller, Snake River Alliance; John J. Williams, Bonneville Power Administration; Brenda Tominaga, Idaho Irrigation Pumpers Association, Inc.; Ron Williams, Idaho Consumer-Owned Utilities Association; Russ Hendricks, Idaho Farm Bureau Federation; Gary Gould, Shoshone-Bannock Tribes; Glen Pond, Rocky Mountain Power; Rich Hahn, Idaho Power Company; Teresa Molitor, CENTRA; Benjamin Davenport, Evans Keane; Clint Kalich, Avista Corp.; Brett DeLange, Office of the Attorney General; and David Hawk, Energy Analysis & Answers; and Lon Stewart.

Included in the opening remarks by **Chairman Eskridge** was the announcement of the death of committee member, **Senator Tom Gannon**, on Tuesday, June 24. The Chairman asked the committee members and audience to remember **Senator Gannon**, each in his own way, with a moment of silence.

The Chairman then asked the committee members, staff, and audience to introduce themselves.

Chairman Eskridge then welcomed **Ron Williams** and **Jo Elg**.

Mr. Ron Williams, Idaho Consumer-Owned Utility Association, introduced **Ms. Jo Elg**, City of Idaho Falls, who will talk about power supply for ICUA members. Idaho Falls is the largest member of ICUA and the focus of her comments will be on one of the power administrations, because what BPA does is essentially their resource planning.

Ms. Elg said that the municipals and cooperatives in the state of Idaho are responsible for their individual integrated resource plan. On occasion, they do work together on development of resources, but it is usually through Bonneville or on an individual basis.

In 2006 when she appeared before this committee, she reported that many of the members were looking at investing in the third unit of the Intermountain Power Project, a 900 megawatt coal plant in Utah. Today, it does not appear that unit three is a viable option for load growth needs for public power. The reality in today's climate is that there are not a lot of viable options for load growth going forward.

Ms. Elg said their focus for the past couple of years has been on BPA's Regional Dialogue Process. She then presented a PowerPoint program titled "Regional Dialogue Policy Implementation" (Handout #1).

Following are some of the key points of her presentation:

What is Regional Dialogue? It is a process to define BPA's long-term power supply role. They are proposing to allocate the federal system and to do so through rates, rather than a natural physical allocation of the federal system.

Why now? Customers need certainty for resource planning for FY 2012 and beyond. The current contracts that they are operating under with Bonneville will expire in September of 2011 and the new contract would begin on October 1. There is an expectation that the federal based system will not meet all of the needs of power for customers when service begins under the new contract. That is one of the reasons they are looking for resources today.

The five things you should know about the process:

- Product Options
- Tiered Rate Methodology
- High Water Marks
- Tier 1 Rate Design
- Tier 2 Alternatives

Product Options:

Load Following	Provides load-following service from BPA for metered load less nonfederal resources applied to load. Customers can apply their resources in their choice of several predefined allowable shapes, or as the resource generates, if they agree to purchase resource support services from BPA.
Block	Provides an amount of power to meet a customer's planned annual net requirement; can be flat or shaped; can be paired with shaping capacity.
Slice/Block	Provides for the combined sale of two distinct power services for service to a preference customer's planned net requirement: the Slice Service and the Block Service.

Block and Slice/Block customers agree to follow their loads with their own resources and purchases beyond what their BPA purchase serves.

Tiered Rate Methodology

What is it? The TRM established a predictable and durable means by which to tier BPA's priority firm power rate.

How does the TRM work? BPA will establish a High Water Mark (HWM) that will be the dividing line between the lowest cost Tier 1 rates and Tier 2 rates.

Pricing of power provided at a Tier 2 rate will be based on the marginal cost of new BPA purchases and resource acquisitions. The tiered rates contract is designed to position BPA as a neutral provider of power needed to meet utility load above its HWM.

High Water Marks A High Water Mark defines the maximum amount of lowest-cost (Tier 1) federal power that a BPA customer can purchase, limited by its net requirement. Assuming medium load growth, BPA currently projects that most customers' FY 2012 net requirement loads will be higher than their contract HWM.

HWM - Net Requirements - The calculation of the HWM is a rate contract and is not the same as Net Requirements. Net Requirements will be a separate annual calculation and may be greater or less than a utility's HWM.

Tier 1 Rate Design

BPA has worked with customers to establish a new approach to rate design that will apply during the term of the RD contracts.

A Composite Customer Charge will be designed to recover a majority of Tier 1 costs.

Individual charges will be adjusted by costs and credits assigned to the specific BPA products they choose.

In each general power rate case, BPA will establish the costs and credits applicable to each of the three cost pools (Composite, non-Slice, and Slice). The rate case will also lock down each customer's share of these costs based on their product(s) and the amount of Tier 1 power available to the customer based on its RHWM.

This is a customer's billing determinant called a customer's Tier 1 Cost Allocator (TOCA).

Serving Load above your RHWM

Non-Federal Purchase–either supported by BPA resource support services (RSS) or in planned shapes.

BPA Purchase at a Tier 2 rate

Combinations of

Non-Federal Resource Types

Tier 2 and individual or combinations of non-Federal Resource Types

Tier 2 Rate Alternatives

Tier 2 Load Growth Rate

* A rate pool for Load-Following customers who want to make an early commitment to have BPA serve all or almost all of their above-RHWM load for the duration of the contract.
* Customers selecting 100% Load Growth Tier 2 service will also be eligible to enroll in the Shared Rate Plan.

Tier 2 Short-Term Rate

* The shortest-commitment Tier 2 rate alternative for customers, with three and then five-year commitments.

Tier 2 Vintage Rates

* Periodically-offered, Tier 2 vintage rates based on specific resource costs for customers that need power to be based on specific resource types (e.g. renewable) or that want to know more about resource costs before they make a long-term commitment.

If one of the above Tier 2 rates has the costs of a renewable resource allocated to it, a purchase at that rate will include renewable energy certificates from that resource.

Shared Rate Plan

What is it?

* An option that allows customers the ability to pool the costs of their Tier 1 and Tier 2 energy purchases so that they collectively pay the same energy rate.
* Only available to Load-Following customers who choose to purchase power solely at the Load Growth Tier 2 rate.

Why a Shared Rate Plan?

* The construct would act as an insurance policy to spread costs of load growth across a group of customers.
* For some customers the single rate would be more simple and less costly to administer.

Resource Support Services

Flattening Service

Allows a customer's load service from BPA to change for purposes of offsetting the output variation in customers' dedicated non-Federal resources. The charges applied to the planned non-Federal resource amounts recover the forecast costs of firming and shaping these variable resources into a flat annual average block of energy.

Forced Outage Reserves

BPA provides reserves at the start of an hour that can be called upon by the customer, with proper notice given to BPA, in the event of a resource or transmission outage for resources dedicated to serve the customer's load. A resource with no capacity value taking the flattening service from

BPA described above is already getting FOR for the resource; however, transmission for FOR due to transmission curtailment or constraints may be necessary.

Secondary Crediting Service

Provides Load-Following customers the ability to apply to their load the secondary energy generated by their dedicated, specified resource from their current Subscription contract, and by doing so account for the value of the secondary energy applied to load beyond the amount established as firm energy.

Resource Remarketing Service

With RRS, BPA will remarket the amount of power from a Load-Following customer resource that is in excess to the customer's above-RHWM load needs during the commitment term this service has been requested.

Contracts

Standardized contract templates
Various iterations have been released for comment since early April and close of comment on these templates is July 15
August 2008 contracts will be issued for signing
December 2008 is the deadline to sign contracts

Timeline

Forecast CHWM Determination: August 2008
Late FY 2008 - TRM (I) concludes
Dec. 2008: Contract signing/product selection
Prior to Nov. 2009 - Initial commitment for serving above HWM load for FY 2012 - 2014
Early FY 2011 - WP-12 Rate Case starts
Mid-late FY 2011 - Contract HWM calculated
Late FY 2011 - WP-12 Rate Case ends
FY 2012 - Power delivery begins
Prior to Oct. 2011 - Subsequent commitment for serving above HWM load for FY 2015 - 2019

Senator Kelly inquired about the coal plant in Utah. **Ms. Elg** responded that it is a 900 megawatt coal plant and it is currently under litigation. It is questionable if the plant will be built. **Senator Kelly** then asked about the investment. **Ms. Elg** said that when Idaho Falls was looking at investing in the project, they held an election to ask for authority to float the bonds and sign the contract. With the Bonneville contract, it is a "pay as you go."

Representative Smith asked if Idaho Falls had a contract with a wind producer near Idaho Falls. Also, she asked if the Wolverine Canyon Project in Bingham County goes forward, would that

also be an area that you would be looking at? **Ms. Elg** said the turbines that you currently see as you drive by Idaho Falls are under contract with Rocky Mountain Power. She said that they are looking at building on different property with a different developer and landowner. Regarding the Wolverine Project, she said that they have not been approached by those developers who are participating in purchasing any of that energy; however, Idaho Falls is always interested in looking at available resources.

Senator Werk asked if when BPA goes towards being a marketer of power, will the costs go up and be unavoidable in terms of the structure of how you buy your power from BPA? **Ms. Elg** said that they see the value in BPA's federal system and the federal-based system, which is the firm component of the Columbia River system. What the public power customers have done is asked Bonneville if they will allocate that rate structure out to all of their preference customers and Bonneville has agreed to do that. They will receive their portion of power at the cost-based rate. However, this will not meet all the preference customer loads when they begin service under those contracts in 2012. **Senator Werk** asked whether Idaho Falls had plans on the board now to try to aggressively manage the demands of the power market? **Ms. Elg** responded by saying they work with BPA, under direction from the Power Council, on their conservation and energy efficiency efforts.

Representative Stevenson said that he was interested in the winter peak contract. He asked if it was a defined block of power and used at a specific time of the year? **Ms. Elg** said that Idaho Falls is a slice purchaser from Bonneville and they don't receive the power from Bonneville in the shape of their load, they receive it in the shape of the federal river system. The bulk of the energy is in the spring runoff and she said they are selling power right now for 50¢/Kwh because of the availability. The revenue they collect in the spring months helps to pay for the power in the winter months. As power manager, part of **Ms. Elg's** responsibilities is to evaluate Idaho Falls's load forecast to determine what they will need for the winter.

Chairman Eskridge inquired if Bonneville was a winter peaker. **Ms. Elg** indicated it was.

The Chairman then asked as to the meanings of HWM, CHWM, and RHWM. **Ms. Elg** replied that they stood for "High Water Mark," "Contract High Water Mark," and "Rate High Water Mark."

Chairman Eskridge stated that BPA was a very large entity/utility. He wondered if buying power from other entities showed a lack of confidence in BPA's ability of obligation of service. **Ms. Elg** said that under the current contracts, Idaho Falls can purchase power from other sources.

Chairman Eskridge said that the Direct Service Industries (DSI) have taken advantage of the federal system at least three times. He stated that we are now paying them up to $59 million to stay off the system to buy their load somewhere else. He asked what the logic was behind this. **Ms. Elg** said it is a burden to pay this.

Representative Anderson asked **Ms. Elg** if she knew of any projects that BPA is trying to purchase on contracts that are being developed in Idaho. **Ms. Elg** responded by saying that she didn't know of any. **Representative Anderson** said that it seemed to him, with all the transmission issues and constraints, there have to be benefits to the states where the contracts are being developed. If a need was developed for a Tier 2 power within our own state, he feels the problem of the hyper-extended transmission problems that we have would be solved. He said that it seems to him that BPA should be developing contracts on projects that are constructed within Idaho. He also feels that there are a lot of politics in all of this and is "miffed" that they have not looked at some of the development. **Ms. Elg** said that she agreed with him.

Chairman Eskridge asked **Mr. John Williams** to respond. **Mr. Williams** said it goes back prior to the energy crisis. In 1995, BPA allowed DSI a certain amount of megawatts and if they couldn't use it, they could sell it on the market. This was at a time when deregulation started. They could diversify from 10 to over 50 megawatts of their load off of Bonneville, as the market was robust. Around 2000, natural gas prices started to go up and customers came back to Bonneville. **The Chairman** said that Bonneville has the right to serve the DSI, but not an obligation to serve the DSI. He questioned if both the public and private entities are being shortchanged.

Representative Anderson said to take that a step further, when Bonneville starts to create policy in a desire to keep DSI's, that there should be state legislatures and Congressional motivations to keep those industries in the state, not a bureaucratic matter. He asked **Mr. Williams** how many of the large aluminum companies are here that are currently still being served? **Mr. Williams** said they do not have any DSI customers in Idaho, but there is a plant still operating in Montana and one or two in Washington and/or Oregon. **Representative Anderson** inquired as to what percentage of those DSI's were enticed to stay here by allowing them to market the sale of their power. **Mr. Williams** said that he would get that figure for him.

Chairman Eskridge thanked **Ms. Elg** for her presentation, then called on **David Hawk** who will talk about energy prices.

The testimony of **Mr. Hawk**, Energy Analysis & Answers, is inserted into the minutes. He provided a map of the Gulf of Mexico, showing locations of drilling by the U.S. and China; a map of the U.S. showing the "NO" zones; and a chart of gas prices which he referred to in his presentation (Handout #2).

Testimony of **David Hawk**:

FACT: We will continue to be a Hydrocarbon society for the next 35 plus years.

FACT: Developing nations, like China and India, will continue to rapidly increase their usage of liquid hydrocarbons, natural gas, and coal.

FACT: It took the world 140 years to use the first trillion barrels of oil. At current and expected rates, we will use the second trillion barrels in 30 years.

STUDIES SHOW: If access is available, the world's daily oil production could climb from 85 million barrels/day to 92 to 102 million barrels/day. There will be a plateau for 15 to 25 plus years reached between 2020 and 2040.

Rate of daily production increase is unlikely to exceed use growth rate. Ultimate world oil potential reserves range from a low estimate of 2.3 trillion barrels to a high of 3.9 trillion barrels from (1) conventional resources; (2) unconventional resources; (3) technology advancements; (4) political, technological, and economic constraints; and (5) longer lead times to develop.

CURRENT PRICES: Oil - $135/barrel and next three years all prices over $100/barrel.

Natural Gas - At Sumas, B.C., July 08 to June 2011, $11.43/mmbtu. At Opal, Wyoming, July 08 to 2011, $8.94/mmbtu. If you bought this gas, you must add the interstate pipeline rate (approximately 47¢) and the local distribution co-rate.

Electric - At Mid C trading hub to hedge - July 08 thru Quarter 4 2008, approximately on peak - 11¢/kwh and off peak - 8.2¢/kwh. January 09 through December 2009, on peak - 9.2¢/kwh and off peak 7.5¢/kwh, except for the wet second quarter, gas fired generation is the margin resource. All those prices create a widening and deeper chasm between the haves and have-nots.

We must open the huge expanse of onshore and offshore America that is currently off-limits to exploration and production of oil and natural gas. We must increase U.S. supplies to lower prices and increase the security of our economic and safety required energy consumption.

To suggest, as we go forward, that the Democrats and/or the Republicans are individually to blame is incorrect and does not solve our dilemma as we go forward.

1. We must have leadership from the President on efficient use of energy and conservation of energy resources. In other words, how we use energy and how much we use.

   Conservation must be the American keyword!

2. Open public lands for drilling and producing that can be and will be quite environmentally benign.

3. Take the government's share of new lands' new production revenue and allocate it to the nation's labs and universities where our researchers can work in a stable financial climate for finding the quantum leap energy technology that will carry not just the U.S., but the

world beyond oil. Natural gas will be a significant part of the mix.

4. We must recognize that China and other countries are not just acquiring production and the commodities, but are also apparently receiving commitments to deliver and giving a commitment to take on a country-to-country basis. While we may be willing to pay the market price, Congress must address the gaming of the energy markets. Prices that do not truly reflect supply/demand must be recognized and addressed.

   Exports of natural gas from Canada will ultimately decrease. We need the Alaskan gas pipeline to be built now.

We may still, during production shortfalls, not be able to access foreign supplies. This includes Canadian oil shale production.

Regulators have allowed too many mergers and acquisitions by and between large oil and gas companies. Some of the reasons have been legitimate, such as:

Restricted areas limiting access, therefore not enough room for everyone to work;

The need for large amounts of capital and creditworthiness to develop large projects, many with political instability.

Some companies have been simply buying a company to own its reserves which they would otherwise have to drill (with risk) to find. Large shareholders have forced the sale of some companies to get a short-term gain on the stock. Greed and risk aversion drive activity.

As traditional energy prices rise, renewables become more economical. The Governor and Director Kjellander's 25x25 program clearly complements the state energy plan. It puts flesh on the skeleton. We must conserve energy.

We will need all our resources in the United States to extract price stability from markets and energy resource security.

We cannot stay polarized along political party lines. We must recognize the oil and natural gas reality of our world and we must build renewables, employ conservation and efficiency and develop the new quantum leap energy sources to carry our grandchildren's children into the 22nd century.

The Idaho Legislature and Governor can express their concerns and propose solutions for national issues through the Resolution and Memorial avenues available to them.

On a statewide basis, the Idaho Legislature and Governor can provide encouragement and leadership to Idahoans on the conservation of energy and the wiser use of energy.

Senator Jorgenson said with the growth in the shale areas, what is the reality of the pipeline going through Wyoming? **Mr. Hawk** said the Rockies Express is going online and will carry up to two billion cubic feet/day out of Wyoming to the east, tying up with other pipelines moving north and south throughout the Eastern seacoast. There are two other pipelines that have been built. The Northwest Pipeline has a proposed pipeline that would come from southwestern Wyoming and would loop the line that is here in Idaho and interconnect with another line in Oregon. That line is about four years away. **Senator Jorgenson** asked if there were any plans for an east to west pipeline. **Mr. Hawk** said the Rockies Express is expanding. Another pipeline is being proposed to central Kansas.

Representative Anderson asked why the federal government doesn't tie up the contracts in the Alberta Tar Sands Project. He said that he understands that the Chinese are talking about a $33 billion dollar pipeline that goes straight to the British Columbia coast. **Representative Anderson** said that he wondered why we don't contract continentally with what is available and under production. **Mr. Hawk** said that they are producing over one million barrels/day in Upper Alberta. The value of the oil there is more than the value of natural gas. The gas will be used to heat the water to drive the oil off the sands and they are trying to ramp up to three million barrels/day. He said that we are currently taking the lion's share of that oil. Canada is the second leading producer that serves the U.S. The contracts are not between the governments, they are between the producer, refiner, and middle people.

Mr. Hawk said that the Energy Policy Acts of 2000 and 2005 required the Secretary of the Interior to conduct inventories of the oil and gas resources on the outer continental shelf and on the continental United States. They did the first phase and when the second phase was presented, only one political party sat down to listen to it. When the information regarding the outer continental shelf inventory was released in 2006, of the estimated 86 billion barrels of oil and 420 tcf of natural gas in the federal offshore, the United States uses 22 tcf per year. Of those reserves, 22 and 20 percent were closed to leasing. Of the 11 onshore basins, 21 billion barrels of oil and 187 tcf of gas - 51 percent of the oil was off-limits to drilling, with 27 percent of natural gas off-limits to drilling. Congress required these studies to be done by the Department of the Interior, but yet Congress has not taken time to look at the studies, after they required them.

Senator Kelly said that she had made the observation that there are two sides to what is being done and would like to have seen a broader discussion of the issues that **Mr. Hawk** presented. **Chairman Eskridge** said he thought **Mr. Hawk** tried to do that and when the agenda was set up, it was an opportunity for a better understanding of the whole energy picture. **Mr. Hawk** said he did not mean for his presentation to be offensive - what he tried to present was that no progress is being made, just bickering back and forth.

Chairman Eskridge said that the frustrations the Canadians expressed to him were that they cannot find buyers from the states, but China is at their doorstep just waiting. He wondered how we could get our government to look at the Canadian resources. **Mr. Hawk** responded by saying

that we are set up for refineries in northern Washington, California, the Gulf Coast and the East Coast, all of which comes by pipeline. Trans-Canada Pipeline is converting one of its gas pipelines to oil that will move the oil to the East Coast. He feels the U.S. should be supporting that. **Mr. Hawk** suggested that the House and Senate of the state of Idaho should talk in terms of a resolution to Congress, as well as providing information to the Governor that he can present at the Western Governors' Conference. **Representative Anderson** said that he has prepared a rough draft of the resolution.

A motion was made by Representative Stevenson and seconded by Senator McKenzie to approve the minutes of October 25, 2007. The minutes were approved unanimously by voice vote.

Mr. Ken Miller, Snake River Alliance, was recognized and thanked for the energy-saving light bulbs that he provided to the committee.

Chairman Eskridge then welcomed **Brett DeLange**, Deputy Attorney General, Office of the Attorney General, who spoke about fuel prices as related to Idaho. **Mr. DeLange** referred his remarks to a 19 page handout that he provided to the committee (Handout #3).

Mr. DeLange said that as of yesterday, regular unleaded fuel was $4.07/gallon and diesel was $4.80/gallon. One year ago, gas was $2.17/gallon and diesel was $2.94/gallon.

For statistical purposes, the federal government places Idaho into a grouping of states called PADD IV. "PADD" is the acronym for Petroleum Administration for Defense District. During World War II, the federal government divided the nation into five PADDs to facilitate fuel distribution and rationing. The designations were retained following World War II, and are now used by federal agencies for the purpose of reporting comparative petroleum-related statistics. Idaho is grouped with Montana, Wyoming, Utah and Colorado and is the only one of those states that has no crude oil reserves, produces no crude oil, and has no refineries. We are dependent upon imported fuel supplies from other states.

Mr. Delange said that according to the Idaho State Tax Commission, fuel consumption in Idaho for 2007 was approximately 3.4 million gallons per day. This fuel consumption was made up of approximately 1.8 million gallons per day of gasoline; 814,506 gallons per day of on-road diesel; 676,168 gallons per day of off-road diesel; and 104, 963 gallons per day of aviation fuel. Overall consumption in 2007 increased almost 8 percent, with aviation fuel growing by 6 percent. Idaho is one of the smallest fuel markets, constituting just .4% of the nation's total petroleum consumption.

Most of Idaho gets its fuel through the Chevron Pipeline, which is 705.6 miles long (Salt Lake City to Spokane) and the capacity is between 66,000 and 74,400 barrels per day. (One barrel equals 42 gallons.) The pipeline operates at or near maximum capacity throughout the year. The cost of the pipeline transportation is approximately two cents per gallon from Salt Lake City to

Boise.

From 2000 to 2007, the average national retail price of regular unleaded gasoline was $1.91. The average cost of a barrel of crude oil was $39. In 2008, crude oil skyrocketed and increased dramatically. Currently, prices are above $130 per barrel and now account for about 75 percent of the national average retail price of a gallon of regular grade gasoline.

Mr. DeLange said another item of concern is the impact the oil futures market has on the cost of crude. Idaho's **Attorney General Wasden** has urged the federal government to investigate the commodities markets effect on the price of gas and also to look into whether these markets have been manipulated. Crude oil prices are determined by worldwide supply and demand. The prices are not set locally or regionally.

Diesel prices have jumped even more dramatically than regular gasoline. The short answer is that international demand for diesel has grown significantly. Most other countries rely more heavily upon diesel than the United States and demand in these countries, particularly China and Europe, has grown consistently, putting pressure on the market.

In Idaho, the demand for diesel has risen dramatically in the past two years. On-road diesel consumption has seen a double digit increase and off-road diesel has seen an almost 70 percent increase. As far as gas prices nationally, Idaho has been one of the top ten states in the nation in terms of high gas prices.

Mr. DeLange then discussed the Idaho law and fuel prices. He said that Idaho addresses the prices in two ways. One is through the Idaho Competition Act, which prohibits conspiracies to restrain commerce in Idaho by fixing prices. The other is through the Idaho Consumer Protection Act, which prohibits the charging of "an exorbitant or excessive price" for fuel during the duration of a disaster or emergency declaration. The Attorney General is responsible for enforcing both Acts and for conducting investigations under both Acts.

Some key features about the Idaho Consumer Protection Act is that it (1) only applies to retail sales; (2) only applies to the duration of an emergency officially declared by the president or governor; (3) the statute does not provide a numerical measure for determining when a price becomes "exorbitant or excessive"; and (4) the statute specifically lists three "facts and circumstances" as relevant in determining when a price is "exorbitant or excessive," but it also provides that these three factors aren't exclusive.

Mr. DeLange said that at the present time, there is no declaration or emergency declaration, so the price gouging provisions of the Idaho Consumer Protection Act do not apply. Also, they are not aware of information suggesting that state antitrust laws have been violated.

Representative Stevenson inquired about the increase of 31.9 percent off-road diesel use. **Mr. DeLange** said they receive their data from the Tax Commission, but would research the question.

Co-chairman McKenzie asked about the capacity issue of the Chevron Pipeline. **Mr. DeLange** said the 3.4 million includes the use in Northern Idaho, but he understands the pipeline runs near capacity at the present time.

Senator Werk asked if wholesale manipulation was occurring and does the law need to be changed? **Mr. DeLange** responded by saying the price increases were happening at the crude level, not the retail level. As you go up the chain, there is less that Idaho can do as far as jurisdiction.

Chairman Eskridge asked what would be the potential of reducing the price if there was an increase of refining capacity? **Mr. DeLange** said that his understanding is that we are importing 10 percent of refined products.

Chairman Eskridge inquired about a state-owned refinery, if that is something we should be looking at, and what are the bottlenecks in building a refinery. **Mr. DeLange** said there could be, in addition to permitting issues, the constitutional issue if the product was sold in commerce.

The next presenter was **Clint Kalich**, Manager of Resource Planning & Power Supply Analyses for Avista, who will talk about their Integrated Resource Plan.

Mr. Kalich said that his background with Avista has been for about nine years, starting a month before the energy crisis. He has been in Resource Planning for most of his career of 20 years. The Governor has also asked him to chair the Wind Task Force. He provided copies of the slides of his PowerPoint presentation and a booklet, "2007 Electric Integrated Resource Plan" (Handout #4).

He said the purpose of Integrated Resource Planning is to develop a 20-year path of resource adequacy at the lowest reasonable cost. They are moving away from the absolute lowest cost to the lowest reasonable cost, which allows them to take a look at the risk associated with it, such as natural gas versus hydro or wind. They have had a lot of public input, with 89 invited members, ranging from customers, regulators, utility staff, etc. **Mr. Kalich** said that they have obligations in place since 1989. In Idaho, there are three orders that direct them to resource plans. In Washington, there is the IRP Rule, PURPA RFP Rule, and Senate Bill 6001. This is Avista's 10th plan and **Mr. Kalich** has done 15 integrated resource plans during his career for various entities.

Mr. Kalich then spoke about Avista's "Footprint and Resources." In Eastern Washington and Northern Idaho, they serve 350,000 electricity customers (90% are residential) in 24 counties; 1,100 average megawatts of load - about 11,800 kWh per residential customer and 11,200 kWh per commercial customer, per year. They plan for their peak load to be about 1,725 MW, which is about half of Idaho Power's peak. Avista is a winter peaking utility. They also have 2,111 MW of Resources, either owned or under contract, with 1,142 hydro and 749 thermal. Their planning margin is 24 percent.

Mr. Kalich stated that there are lots of changes in resource planning, with some of the changes giving them fewer opportunities to make decisions on behalf of their customers. One of the hurdles is the rising resource costs, both in capital and fuel. In Washington, the Citizens' Initiative 937 was passed by the voters and it requires Avista to have three percent (3%) of their load served by renewable type energy by 2012; nine percent (9%) by 2016; and fifteen percent (15%) by 2020. One of the challenges of the Citizens' Initiative 937 is that some of Avista's promising locations do not qualify, as they only allow the Columbia Basin drainage. If you are more than 75 miles east of the Rockies, you can't bring wind in. They are looking at sites in Idaho.

Senator Jorgenson asked where the sites were located in Idaho. **Mr. Kalich** said there are three locations in Grangeville.

Chairman Eskridge inquired if wind power east of the Rockies could serve Idaho. **Mr. Kalich** replied that it would be possible.

Mr. Kalich said another planning hurdle was the federal and state carbon legislation. He then briefly reviewed IRP's Analytical Highlights, followed by the Conservation History and Future (1978-2010). He explained that it started with the water heater wrapping program in 1978, fuel switching that peaked in 1993, and the energy crisis in 2001. With regards to their resource strategy from 2005 to 2007, conservation increased by 25 percent; no change with plant upgrades; wind renewables were down, as well as other renewables (geothermal, biomass, methane); coal has disappeared from the plan; and natural gas is up by 350 MW, replacing 250 MW of coal. **Mr. Kalich** said that he was pleased to say that they have enough resources to meet all their customers' needs.

At the close of the presentation, **Mr. Kalich** reviewed some highlights of 2007 IRP. They are:

- 25 percent more conservation than 2005 IRP and 85 percent more than 2003 IRP
  - Reflecting higher avoided costs and redoubling of efforts
- Fewer renewables than in 2005 IRP
  - Continued rises in turbine prices make resource less attractive
  - "Other Renewables" category looks less likely to materialize
  - Plan still exceeds Washington RPS
- No coal-fired generation, replaced with gas
  - Rising costs (capital and CO_2) and WA SB 6001
- First annual deficiency in 2014

Co-chairman McKenzie asked what kinds of programs were being done as incentives for customers regarding conservation and also the budget for those programs. **Mr. Kalich** said the budget is between $5 and $10 million. **Chairman McKenzie** said that as policymakers, they try to find ways to have the lowest possible cost without adding additional burdens on the market, and asked what was the most beneficial program. **Mr. Kalich** said the direct use of natural gas and low-income winterization were two of the ways to conserve.

Senator Jorgenson asked about geothermal energy. **Mr. Kalich** said one technology is to take energy out of well water by pumping it out, then back into the ground (water source). Another technology is air source. One of their programs is to put both air and ground source (heat pumps) into homes. However, it does cost many thousands of dollars to install.

Senator Kelly inquired of Mr. Kalich whether he saw things being done in Washington, that as policymakers, they should be doing the same things in Idaho to encourage conservation and efficiency. **Mr. Kalich** replied that Idaho is doing a good job and a short answer to her question was "no."

Senator Werk asked about the costs of new nuclear plants. **Mr. Kalich** said the costs were hard to predict, but appeared to be some of the highest-cost power.

Senator Werk then said that Idaho has statutes on the books that provide incentives for upgrading residences that have been built prior to 1976 and asked if Washington had a similar type of statute. **Mr. Kalich** said that he didn't have that information, but would be happy to research the question and provide the information for him.

Senator Werk also said that Washington has a central building authority for public schools and they control the ways that public schools are constructed. He then asked if Avista is involved in any way in terms of trying to minimize the energy use of new public schools. **Mr. Kalich** said they do get actively involved with the school districts as they try to come up with programs. **Chairman Eskridge** asked how are the schools dealing with energy conservation, haphazardly or a concerted effort? **Mr. Kalich** indicated that he did not know.

Chairman Eskridge then inquired about resource balance. **Mr. Kalich** said they try to serve the peak loads of the customers and make sure they have enough energy. They track capacity and electrical energy capacity. **The Chairman** then asked, as a user, what was the risk of power rates and dependability. **Mr. Kalich** said that there are 13 large vendors selling turbines and forecasting 10-15 percent a year for the turbine increases. Gas plants can be built quite efficiently. He said that Avista is a mid-sized utility. He was then asked if Avista could buy into a coal plant and he answered that they could, up to five years.

Senator Werk asked if the demand for electricity for electric cars is on Avista's planning horizon. **Mr. Kalich** said that they have done a study on plug-in hybrids and have forecast a 30 percent increase in demand of energy consumption in the next 20 years.

Chairman Eskridge thanked Mr. Kalich for speaking to the committee and said that the remaining time would be spent in discussion regarding energy efficient school buildings.

Senator Werk opened the discussion by updating the committee on what has gone on. In the last legislative session, there was a bill that was discussed requiring school districts to use integrated design and fundamental commissioning. Idaho has a performance contracting statute

that allows older school buildings to do some upgrades. He feels some work needs to be done on that statute. For new schools, each district is allowed to build schools on their own. The Division of Building Safety has some oversight in terms of submission of plans, complying with codes, but the Division does not help schools build buildings. With regards to the bill, it went to the State Affairs Committee and there was conflicting testimony with some districts supportive and other districts didn't want anyone telling them what to do. **Senator Werk** said that he felt the consensus of the State Affairs Committee was that it shouldn't be required, but there should be incentive-based programs if a school district chose to build more efficient buildings. The School Administrators Association is collecting information from school districts on their actual energy uses, partly due to the conflicting testimony. Eight districts have responded so far. **Representative Smith** inquired as to the name of the survey. **Senator Werk** said that he, the co-chairs, and Senator Little authored a letter to the school organizations asking for information and ultimately, the Association of School Administrators coordinated the effort.

Representative Stevenson said that incentives give schools a reason to do it; otherwise, it becomes an unfunded mandate, and that is one of the criticisms. **Chairman Eskridge** said the incentive that was put in the bill was that they would participate in a bond equalization program to a higher degree, and it would reduce the interest obligation to the school districts.

Representative Smith said that in her school district, Pocatello/Chubbuck, they have an energy consultant and inquired if other school districts have them. **Senator Werk** said the larger school districts have the staff and the expertise, but the smaller districts in rural areas do not.

Regarding the data of energy use being asked of the school districts, **Mike Nugent** of Legislative Services said it is quite hard to break the data down as to how the schools use energy and how efficient it is. He commented that the State Building Authority issues bonds for state buildings. Two years ago, the Legislature made a change for community colleges that have bonds issued to them by the State Building Authority. Perhaps as an incentive, there could be some statutory language that could include school districts. It would have to be a fundamental policy decision and money put in for it to be a mechanism to use.

Senator Werk said the bill will be restructured and information will be provided in advance to the committee that will hold the hearing for the bill.

Representative Anderson requested that discussion on this issue be continued at future meetings.

Chairman Eskridge adjourned the meeting at 4:55 p.m.

NOTE: All handouts are on file in the Legislative Services Office.